

## BEFORE THE ARIZONA CORPORATION COMMISSION

**COMMISSIONERS**

ROBERT "BOB" BURNS – CHAIRMAN  
BOYD DUNN  
SANDRA D. KENNEDY  
JUSTIN OLSON  
LEA MÁRQUEZ PETERSON

IN THE MATTER OF THE APPLICATION )  
OF TUCSON ELECTRIC POWER )  
COMPANY FOR APPROVAL OF A SPECIAL )  
CONTRACT WITH THE ARIZONA BOARD )  
OF REGENTS FOR AND ON BEHALF OF )  
THE UNIVERSITY OF ARIZONA )

DOCKET NO. E-01933A-19-\_\_\_\_\_

**APPLICATION**  
(Expedited Approval Requested)

On August 13, 2019, Tucson Electric Power Company ("TEP" or "Company") entered into a Special Contract for electric service ("Agreement") with the Arizona Board of Regents on behalf of the University of Arizona ("UA"). TEP, through undersigned counsel, hereby submits this Application to the Arizona Corporation Commission ("Commission") for approval of the Agreement.<sup>1</sup> Because the Agreement contains confidential information, the Agreement, which is attached as Exhibit A to this Application, has been redacted. An un-redacted version of the Agreement will be provided to Commission Staff upon execution of a protective agreement in this docket. TEP requests that the Commission approve this Application on or before December 31, 2019.

UA is the largest institution of higher learning in TEP's service territory and was established in 1885 as the state's land-grant university with two medical schools. The UA benefits the state of Arizona with an estimated economic impact of \$8.3 billion annually and is one of TEP's largest customers.

Under this Agreement, TEP will partner with UA to support their renewable energy goals. UA is part of the University Climate Change Coalition, aimed at reducing climate-changing emissions and improving research on climate change policy across its 20 member universities in the United States, Canada and Mexico. Once the Agreement is approved by the Commission, UA

<sup>1</sup> The Agreement is a special contract entered into pursuant to TEP's Rules and Regulations, Section 3.A.4.

1 will be the largest research university in the country to have a plan in place to offset the entirety  
2 of its scope two emissions.<sup>2</sup> The Agreement provides UA with necessary renewable energy from  
3 two specific TEP renewable projects to meet its carbon reduction target.

4 Under the Agreement, TEP will dedicate a portion of the power from two new renewable  
5 energy projects to serve the energy needs of UA. These projects include a wind farm in New  
6 Mexico and a solar plus storage system southeast of Tucson.<sup>3</sup> The Agreement provides UA with  
7 affordable access to renewable energy from those two systems for 20 years without increasing or  
8 shifting costs to other TEP customers.

9 The Agreement provides that UA will remain on TEP's Large Power Service Time-of-Use  
10 Tariff or the Large Power Service Time-of-Use High Voltage Tariff. Moreover, TEP will charge  
11 UA a fixed green energy charge and an integration charge instead of the standard energy rate set  
12 forth in the tariff. This will ensure that UA will pay the full cost that TEP incurs to serve their  
13 energy needs.

14 Like other special contracts approved by the Commission, TEP believes the Agreement is  
15 in the public interest because it meets the energy needs of one of its largest customers without  
16 increasing costs to other customers. Moreover, the Commission has approved other special  
17 contracts, including one related to Arizona State University in 2016.<sup>4</sup>

18 TEP hereby waives any requirement that the Commission take action on the Application  
19 within a thirty-day period as referenced in A.R.S. § 40-367 as may be deemed applicable through  
20 December 31, 2019.

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24 <sup>2</sup> Scope two emissions are greenhouse gasses that result from the generation of electricity, heat or steam  
25 purchased from a utility provider.

26 <sup>3</sup> The Wilmot Energy Center will include a 100-megawatt (MW) solar array and a 30-MW energy storage  
27 system, each the largest of their kind on TEP's local energy grid. The Oso Grande Wind Project is a 247 MW  
wind farm being developed by TEP.

<sup>4</sup> Decision No. 75479 (March 10, 2016). The Commission also approved a special contract in Decision No.  
75165 (July 15, 2015).

1 WHEREFORE, TEP respectfully requests that the Commission approve the Agreement on  
2 or before December 31, 2019.

3 RESPECTFULLY SUBMITTED this 23rd day of August, 2019.

4  
5 TUCSON ELECTRIC POWER COMPANY

6  
7 By s/Michael W. Patten

8 Megan J. DeCorse  
9 Bradley S. Carroll  
10 Tucson Electric Power Company  
11 88 East Broadway, MS HQE910  
12 P.O. Box 711  
13 Tucson, Arizona 85702

14 and

15 Michael W. Patten  
16 Snell & Wilmer L.L.P.  
17 One Arizona Center  
18 400 East Van Buren Street  
19 Phoenix, Arizona 85004

20 Attorneys for Tucson Electric Power Company

21  
22 Original efiled this 23rd day of August, 2019, with:

23 Docket Control  
24 Arizona Corporation Commission  
25 1200 West Washington Street  
26 Phoenix, Arizona 85007

27 Copies of the foregoing hand-delivered/mailed  
this 23rd day of August, 2019, to:

Elijah Abinah, Director  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

1 Jane L. Rodda, Chief Administrative Law Judge  
2 Hearing Division  
3 Arizona Corporation Commission  
4 1200 West Washington Street  
5 Phoenix, Arizona 85007

6 Robin Mitchell, Chief Counsel  
7 Legal Division  
8 Arizona Corporation Commission  
9 1200 West Washington Street  
10 Phoenix, Arizona 85007

11 By s/Jennifer Thomes

## **EXHIBIT A**

## SPECIAL CONTRACT

This special contract ("Agreement") is dated August 13, 2019 ("Execution Date"), and is between Tucson Electric Power Company, an Arizona corporation ("TEP"), and the Arizona Board of Regents on behalf of the University of Arizona ("UA"). TEP and UA are referred to in this Agreement individually as "Party" and collectively as the "Parties."

## RECITALS

- A. TEP is an electric utility engaged in the generation, transmission, and distribution of electric power and energy in Pima and Cochise Counties in the State of Arizona.
- B. Established in 1885, the University of Arizona, the state's land-grant university with two medical schools, produces graduates who are real-world ready through its 100% Engagement initiative. Recognized as a global leader, the UA is also a leader in research, bringing more than \$684 million in research investment each year, and ranking in the top 25 among all public universities. The UA is advancing the frontiers of interdisciplinary scholarship and entrepreneurial partnerships and is a member of the Association of American Universities, the 62 leading public and private research universities. It benefits the state with an estimated economic impact of \$8.3 billion annually.
- C. TEP has an obligation to provide electric service to UA under the terms and conditions of its applicable rules and regulations on file with the Arizona Corporation Commission ("ACC"), which may be amended from time to time (the "TEP Rules and Regulations").
- D. UA is an electric service customer of TEP.
- E. TEP currently generates and sells electricity to UA from resources that emit greenhouse gases during the electrical generation process.
- F. The indirect emissions resulting from UA's purchase of electricity generated by resources that emit greenhouse gases are referred to in this Agreement as "Scope 2 Emissions."
- G. As part of UA's long-term sustainability goals, it desires to offset one-hundred percent (100%) of its Scope 2 Emissions by the year 2021 (UA's "Scope 2 Commitment").
- H. UA requested electric service from TEP that will help UA achieve its Scope 2 Commitment.
- I. The Parties desire to work together to help UA achieve its Scope 2 Commitment (collectively, the "UA-TEP Renewable Energy Project").
- J. The Parties intend to develop the UA-TEP Renewable Energy Project in a manner that is beneficial to both UA and TEP and is cost-neutral to TEP's other customers.
- K. TEP considers UA's electric service request and the UA-TEP Renewable Energy Project as it sizes current and future renewable generation projects.
- L. TEP is developing a wind-powered electric generating facility in New Mexico, which TEP

anticipates will have a nominal rating of 247.4 megawatts ("MW") (the "Wind Project").

M. The date that the Wind Project is fully constructed and available to TEP for commercial operation is the "Wind Project In-Service Date."

N. TEP is working with the Wind Project contractor to cause the Wind Project In-Service Date to occur by December 31, 2020.

O. TEP has agreed to purchase electric energy from a certain photovoltaic solar electric generating project in Arizona, which TEP anticipates will have a nominal rating of 100 MW ("Solar Project").

P. The date that the Solar Project is fully constructed and available to TEP for commercial operation is the "Solar Project In-Service Date."

Q. TEP is working with the Solar Project contractor to cause the Solar Project In-Service Date to occur by December 31, 2020.

R. TEP desires to provide UA with a proportionate amount of energy from each of the Wind Project and Solar Project.

S. UA desires to pay TEP a specific energy supply rate for the proportionate amount of energy that TEP would provide to UA from each of the Wind Project and Solar Project, up to UA's retail load.

[REDACTED]

[REDACTED]

V. The Parties acknowledge that TEP is authorized under the TEP Rules and Regulations, Section 3.A.4, to require a written contract with special guarantees from UA because requirements for service associated with the UA-TEP Renewable Energy Project are of a special nature.

W. The Parties acknowledge that this Agreement is a special contract pursuant to the TEP Rules and Regulations, Section 3.A.4.

X. The Parties desire to enter into this Agreement to set forth their respective rights and obligations regarding the UA-TEP Renewable Energy Project.

The Parties therefore agree as follows:



## AGREEMENT

### ARTICLE 1 GENERAL TERMS

1.1 Effective Date. Following the Execution Date, TEP shall file a copy of the Agreement with the ACC requesting an order approving the Agreement. For avoidance of doubt, this Agreement will become effective only if the ACC issues an order approving the Agreement. The date on which the ACC issues such an order is the "Effective Date" for this Agreement. If the ACC does not issue an order approving the Agreement, the Parties nonetheless agree in all material respects to Section 4.1, 4.2, 6.1, and 6.2, and Article 10 for a period of time equal to 20 years after the Execution Date.

1.2 Term. Starting on the Effective Date, and unless earlier terminated pursuant to Section 8.1, this Agreement will continue in effect for a term that will terminate 20-years after the start of the later of the Wind Project In-Service Date or Solar Project In-Service Date (in total, the "Term"). The 20-year period starting on the later of the Wind Project In-Service Date or Solar Project In-Service Date is the "Renewable Energy Term."

1.3 Commercially Reasonable Efforts. "Commercially Reasonable Efforts" means, with respect to a stated objective, the efforts that a reasonable and prudent person in the position of the Party obligated to use Commercially Reasonable Efforts would use to accomplish the objective. Commercially Reasonable Efforts does not require a Party to accomplish the objective, and, thus, is not an agreement-to-agree at a future time.

1.4 Representations and Warranties. Each Party represents and warrants to and in favor of the other Party the matters set out below and acknowledges that the other party is relying upon the following in connection with the matters contemplated by this Agreement:

1.4.1 Such Party is duly organized, validly existing, and in good standing under the laws of its jurisdiction of formation. Such Party has the requisite power and authority to enter into this Agreement, to carry out its obligations under this Agreement, and to complete the transactions contemplated by this Agreement. The execution and delivery by such Party of this Agreement and the performance by such Party of its obligations in this Agreement have been duly authorized by all requisite entity action on the part of such Party. This Agreement has been duly executed and delivered by such Party and, assuming due authorization, execution, and delivery by the other Party, this Agreement constitutes a legal, valid, and binding obligation of such Party, enforceable against it in accordance with its terms.

1.5 Definitions. Unless otherwise required by the context in which any capitalized term appears, or unless otherwise specifically defined elsewhere in this Agreement, capitalized terms used in this Agreement have the meanings set forth in Annex 1.

### ARTICLE 2 RENEWABLE ENERGY RESOURCES



2.2. Renewable Energy.

2.2.1 Wind and Solar Energy. Upon the start of the Renewable Energy Term, TEP shall serve the UA's retail load [REDACTED] with a proportionate amount of the electricity generated from each of the Wind Project and Solar Project, as such generated electricity is available to TEP, in accordance with the following calculations (the "UA Wind Energy" and "UA Solar Energy," respectively):

[REDACTED]

[REDACTED]

[REDACTED]

2.3 Renewable Energy Credits.

2.3.1 Renewable Energy Credit. "Renewable Energy Credit" or "REC" means the unit created for each kWh derived from eligible renewable energy resources, as defined in Arizona Administrative Code § R14-2-1803.A. One REC is created for each kWh derived from the Wind Project and Solar Project.

[REDACTED]

(a)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

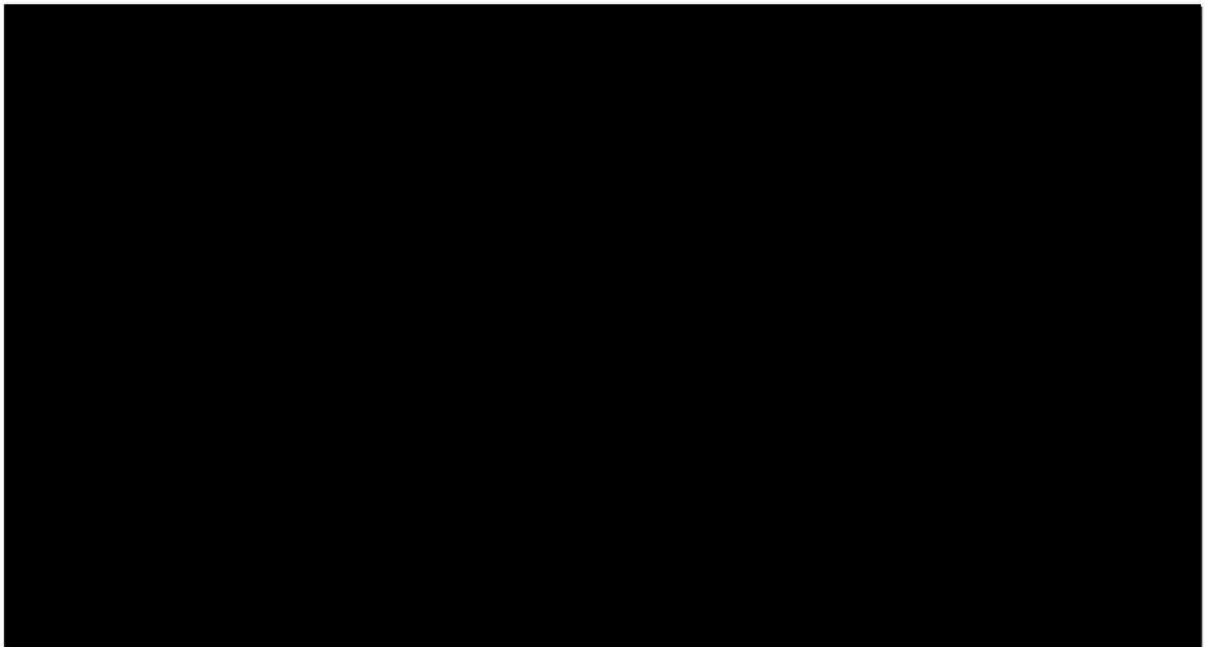
[REDACTED]

2.4 Good Utility Practice.

2.4.1. Definition. For purposes of this Agreement, "Good Utility Practice" means any

of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region, including those practices required by Federal Power Act section 215(a)(4).


2.4.2 Good Utility Practice. TEP shall operate and maintain the Wind Project and administer its contractual obligations for the Solar Project in accordance with Good Utility Practice.



2.4.4 Renewable Energy Risk. UA acknowledges that the Wind Project Generation or Solar Project Generation may from time to time during the Renewable Energy Term equal zero (0) because of a lack of wind or sunshine. UA further acknowledges that at times when the Wind Project Generation or Solar Project Generation equal zero, the UA Wind Energy or UA Solar Energy, respectively, will also equal zero.

2.4.5 Planned Outages. TEP shall use Commercially Reasonable Efforts and apply Good Utility Practice to schedule planned outages outside the months of May, June, July, August, and September and outside the hours with higher time-of-use rates, to the extent that such planned outages affect the rights and obligations contemplated in this Agreement.

### ARTICLE 3

TARIFF, SUPPLY, 

#### 3.1 Tariff Charges.

3.1.1 Tariff Charges. Except for 

[REDACTED] TEP shall charge UA all then-applicable charges, rates, taxes, and assessments pursuant to TEP's schedule of rates and charges ("Tariff") for provision of electricity and electric service.

3.1.2 High Voltage Tariff Charges. Upon the later of [REDACTED]  
[REDACTED] TEP shall replace the power supply charges and basic service charges pursuant to the Large Power Service Time-of-Use Tariff description with the power supply charges and basic service charges pursuant to the Large Power Service Time-of-Use High Voltage Tariff description [REDACTED]

[REDACTED]

3.2 UA Green Energy Charge. Upon the start of the Renewable Energy Term, [REDACTED]

[REDACTED]  
[REDACTED] TEP shall charge UA for the UA Wind Energy and UA Solar Energy that was used, [REDACTED] in accordance with the following equation (the "UA Green Energy Charge"): [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3.4 Billing and Payment.

3.4.1 Billing. By no later than 15 days after the end of a calendar month, TEP shall prepare and submit to UA a bill for electric service that TEP provided [REDACTED]  
[REDACTED] during the previous month ("Monthly Invoice"). TEP will submit the bill electronically to [REDACTED]

UA at the email address listed in Section 3.4.5. If TEP does not submit the Monthly Invoice electronically, TEP will mail the Monthly Invoice at the address listed in Section 3.4.5.

3.4.2 Payment. UA shall pay TEP the amount billed by TEP within ten (10) days of the date of the Monthly Invoice ("Due Date"). If the Due Date is on a weekend or holiday, the Due Date will extend to the first business day following such weekend or holiday.

3.4.3 Payment Dispute. If UA disputes any amounts included in the Monthly Invoice (a "Payment Dispute"), it shall nonetheless pay the entire amount by the Due Date. UA shall provide written notice of any Payment Dispute to TEP's Authorized Representative within ten business days of receipt of the Monthly Invoice that it disputes ("Payment Dispute Notice"). Any Payment Dispute Notice must provide reasonable detail about the disputed portion of the Monthly Invoice and reasons why such amounts are being disputed. TEP's and UA's Billing Representatives have thirty (30) days from the date of the Payment Dispute Notice to meet and attempt to resolve the Payment Dispute. If the Parties are unable to timely resolve the Payment Dispute, then the provisions of Section 7.1.2(c) will apply.

3.4.4 Late Payment. If UA does not pay the amount invoiced by the Due Date, UA shall pay TEP the amount invoiced with interest accrued to the amount invoiced from the Due Date to the date of payment at the rate prescribed in TEP's Rules and Regulations.

3.4.5 Billing Representatives. Each Party designates the following "Billing Representatives":

For TEP:

[REDACTED]

For UA:

[REDACTED]

#### ARTICLE 4

[REDACTED]

[REDACTED]

[REDACTED]

4.2 [REDACTED]  
[REDACTED]

4.3 [REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ARTICLE 5

[REDACTED]

5.1 [REDACTED]  
[REDACTED]

ARTICLE 6

[REDACTED]

[REDACTED]

6.2 [REDACTED]

[REDACTED]

6.2.1 [REDACTED]

[REDACTED]

6.2.2 [REDACTED]

[REDACTED]

6.2.3 [REDACTED]

[REDACTED]

6.2.4 [REDACTED]

[REDACTED]

6.3 Survival. If this Agreement terminates prior to the end of the Term for any reason included in Section 8.1, Sections 6.1 and 6.2 will survive for a period of time equal to what would have been the remainder of the Term had the termination not occurred.



## ARTICLE 7 DISPUTES

**7.1 Dispute.** Except for a Payment Dispute, any controversy or claim, whether based on contract, tort, statute, or other legal or equitable theory (including any claim of fraud, misrepresentation, or fraudulent inducement, or any question of validity or effect of this Agreement) arising out of or related to this Agreement (including any amendments or extensions), or the breach or termination of this Agreement (each a "Dispute") will be resolved in accordance with the procedures specified in this Article 7. Except for a Payment Dispute, the provisions of this Article 7 will be the exclusive method of resolving Disputes. Nothing in this Agreement will preclude a Party from seeking temporary or preliminary injunctive relief from a court of competent jurisdiction to avoid irreparable harm or injury, or to preserve the status quo. Notwithstanding a Party's right to seek injunctive relief, the Parties shall continue to participate in good faith in the procedures specified in this Article 7 with respect to any Dispute.

**7.1.1 Initiation of Dispute Resolution Procedures.** Any Party wishing to initiate the dispute resolution procedures set forth in this Article 7 with respect to a Dispute not resolved in the ordinary course of business must give written notice of the Dispute to the other Party (a "Dispute Notice"). The Dispute Notice will include (i) a statement of the initiating Party's position and a summary of arguments supporting that position, (ii) the name(s) and title(s) of the person(s) who will represent the initiating Party, and (iii) the name and title of all other persons who will accompany the Party's representatives in the negotiations under this Section 7.1.1. Within fifteen (15) days after delivery of the Dispute Notice, the receiving Party shall submit to the Party providing the Dispute Notice a written response (the "Dispute Response"). The Dispute Response will include (x) a statement of the responding Party's position and a summary of arguments supporting that position, (y) the name(s) and title(s) of the person(s) who will represent the responding Party, and (z) the name and title of all other persons who will accompany the Party's representatives in the negotiations under this Section 7.1.1.

**7.1.2 Negotiation to Resolve Disputes.** Within fifteen (15) days following delivery of the Dispute Response, the Parties shall begin to attempt to resolve such Dispute through the following procedure:

(a) First, the designated Authorized Representatives of the Parties shall meet at least weekly, for a period of not less than thirty (30) days, at a mutually acceptable time and place, and as often as they reasonably deem necessary, to attempt to resolve the Dispute. The Parties may waive the obligation to meet for a period of thirty (30) days if they sooner resolve the Dispute to their mutual satisfaction.

(b) Second, if the Dispute remains unresolved after thirty (30) days following the commencement of the meetings described in Section 7.1.2(a), then within thirty (30) days thereafter, the chief executive officers of the Parties shall meet (whether by phone or in person) in a good-faith attempt to resolve the Dispute.

(c) Third, if the Dispute is still unresolved after ten (10) business days following the commencement of the meetings described in Section 7.1.2(b), or if the unresolved matter is a Payment Dispute, then the Parties may exercise any right or pursue any remedy available to them at law, in equity, or under this Agreement,

including alternate dispute resolution processes.

## ARTICLE 8 TERMINATION

8.1 Termination. The Parties may terminate this Agreement prior to the end of the Term, as set forth in this Article 8.

8.1.1 Default. Either Party may terminate this Agreement if the other Party materially defaults in its performance under this Agreement and such default continues for a period of thirty (30) days after receipt by the defaulting Party of written notice of such default from the non-defaulting Party. However, if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then the defaulting Party will not be deemed in default if such Party commences its cure within the thirty (30) day cure period and thereafter diligently pursues such cure to completion; provided, however, in no event will such cure period extend more than ninety (90) days after receipt by the defaulting Party of written notice of such default from the non-defaulting Party. The Party terminating this Agreement pursuant to this Section 8.1.1 may do so only if that such Party is not then in default under this Agreement.

8.1.2 UA Green Energy Charge. Either Party may terminate this Agreement if the ACC issues an order disallowing the UA Green Energy Charge.

8.1.3 Law. Either Party may terminate this Agreement if any final and non-appealable law becomes effective that restrains, enjoins, or otherwise prohibits or makes illegal the completion of the transactions contemplated in this Agreement.

8.1.4 [REDACTED]

8.1.5 [REDACTED]

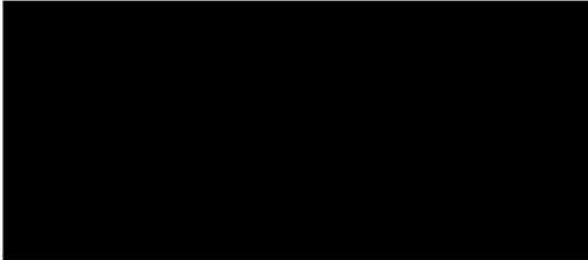
## ARTICLE 9 LIMITATION OF LIABILITY

9.1 Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS OR DAMAGES TO THE OTHER PARTY'S BUSINESS REPUTATION, LOSS OF EARNINGS OR REVENUES OR COST OF PURCHASED POWER, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION FOR CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, WHETHER OR NOT THE FIRST PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

ARTICLE 10  
MISCELLANEOUS PROVISIONS

10.1 Notices. Each Party designates the following “Authorized Representatives”:

For TEP:



For UA:



All notices under this Agreement must be in writing. Notice will be deemed given if provided in writing to the other Party's Authorized Representative and (i) upon delivery if delivered in person, (ii) on the date of receipt if sent by certified or registered United States mail, (iii) upon receipt of confirmation if sent by facsimile, (iv) upon delivery if delivered by commercial courier service, or (v) upon delivery if delivered by e-mail. As proof of service by a commercial courier or email it will be sufficient for the sender to produce a receipt of a reputable courier company showing the correct address of the Authorized Representative on whom notice is served or an email log from the sender's corporate computer showing the correct email address of the Authorized Representative on whom notice is served.

10.2 Confidentiality.

(a) Confidential Information. The Parties shall hold in confidence all information that has been or will be communicated or transmitted to each other in connection with this Agreement (“Confidential Information”), and not disclose, distribute, or disseminate the Confidential Information in any way to any third party, except as provided in this Agreement. Each Party shall not disclose any Confidential Information in any manner whatsoever, in whole or in part, without the prior written consent of the disclosing party; provided, however, that a Party may disclose Confidential Information to individuals confidentially bound to the receiving Party who need to know the Confidential Information in order to accomplish the purpose for which the Confidential Information was disclosed, who are informed of the confidential nature of the Confidential Information, and who agree to be bound by the terms of this provision.

(b) Exclusions. Confidential Information does not include information that (i) is or becomes generally available to the public other than as a result of a disclosure by either Party in contravention of this Agreement, (ii) was known by the receiving Party on a non-confidential basis prior to its disclosure, (iii) is received from a third party without breach of this Agreement, (iv) is independently developed by a Party without reference to the other Party's Confidential Information, or (v) is legally required to be disclosed; provided, however, that the disclosing Party will immediately inform the other Party of the need for such disclosure so that the other Party may seek a protective order or other appropriate mechanism, to maintain the confidentiality of such information.

(c) Public Announcements. The Parties shall use Commercially Reasonable Efforts to cooperate and coordinate external communications and public-relation activities relating to the subject matter contemplated in this Agreement.

(d) Survival. The confidentiality obligations in this Agreement will survive for a period of two (2) years after any termination of this Agreement.

10.3 Order of Precedence. In the event of any conflict between this Agreement and TEP's Rules and Regulations, this Agreement will control. For avoidance of doubt, the TEP Rules and Regulations will control for all matters not specifically addressed by this Agreement.

10.4 Successors and Assigns. This Agreement will be binding on the Parties' respective successors and permitted assigns. No Party may assign its rights or delegate its duties under this Agreement without the prior written consent of the other Party, which consent will not to be unreasonably withheld.

10.5 Governing Law. This Agreement is governed by the laws of the State of Arizona, without regard to the choice of law principles. All claims relating to or arising out of this Agreement, or the breach thereof, whether in contract, tort, or otherwise, will likewise be governed by the laws of Arizona, without regard to choice of law principles.

10.6 Venue. Except for legal proceedings over which the Arizona Corporation Commission has exclusive jurisdiction, venue for any legal proceedings brought by one Party against the other Party under this Agreement will be a court of competent jurisdiction in Pima County, Arizona.

10.7 Force Majeure. Neither Party will be liable to the other Party for damages or delays in performance of this Agreement during any period in which such performance is delayed by Acts of God, acts and/or omissions of federal, state, and local governmental authorities and regulatory agencies, or other events that are beyond the reasonable control of the Party claiming force majeure that could not have been reasonably foreseen or prevented. The delayed Party's time for performance will be suspended by the occurrence of such unforeseen event for the duration of the event; provided, however, that the Party claiming force majeure provides prompt written notice to the other Party of such condition. Nothing contained in this Agreement will be construed to require a Party to settle any strike or labor dispute in which it may be involved. In no event will the inability to make payment or the unavailability of funds be considered an event of force majeure. When such event of force majeure exists, the affected Party shall proceed with reasonable diligence to remedy the conditions causing the force majeure and proceed with the performance of its obligations under this Agreement at the earliest practicable date. Force majeure delays may not in any event exceed July 1, 2021, as it relates to Section

8.1.7.

10.8 No Third Party Beneficiaries. This Agreement does not confer any rights or remedies upon any person other than the Parties and their successors and permitted assigns.

10.9 Modification. The Parties cannot modify or supplement this Agreement except by written instrument signed by the Parties.

10.10 Waiver. Any failure of either Party to waive or enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the term of this Agreement will in no way affect the validity of this Agreement or any part of this Agreement, and will not be deemed a waiver of the right of such Party thereafter to enforce any and each such provisions.

10.11 Severability. If any term, provision, covenant, or condition of this Agreement is determined by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement will remain in full force and effect and in no way will be affected, impaired, or invalidated by reason of such holding.

10.12 Counterparts. This Agreement may be executed in counterparts, including by the exchange of pdf signature pages, each of which will be deemed an original and all of which taken together will constitute one and the same instrument.

10.13 Conflict of Interest. This Agreement is subject to cancellation pursuant to the provisions of Arizona Revised Statute ("ARS") § 38-511 regarding conflict of interest.

10.14 Inspection and Audit. TEP shall keep all books, accounts, reports, files and other records relating to this Agreement for five (5) years after any termination of this Agreement. In addition, TEP agrees that such books, accounts, reports, files and other records are subject to audit pursuant to ARS § 35-214.

10.15 No Boycott of Israel. As required by ARS §§ 35-393 to 35-393.01, TEP certifies it is not currently engaged in a boycott of Israel and will not engage in a boycott of Israel during the Term. However, unless and until the District Court's injunction in Jordahl v. Brnovich et al., Case No. 3:17-cv-08263 (D. Ariz.) is stayed or lifted, ARS § 35-393.01 (A) is unenforceable and the State of Arizona will take no action to enforce it.

10.16 Confidentiality and Public Information. Notwithstanding Section 10.2 (Confidentiality), TEP acknowledges that all UA agreements are subject to applicable public records laws including ARS § 39-121 et seq.

10.17 Non-Discrimination. The Parties shall comply with all applicable state and federal statutes and regulations governing equal employment opportunity, non-discrimination, and immigration.

10.18 State Obligation. The Parties acknowledge that the performance by the Arizona Board of Regents for and on behalf of UA may be dependent upon the appropriation of funds by the State Legislature of Arizona or the availability of funding from other sources. If, for the purposes contemplated in this Agreement, (i) the Legislature fails to appropriate the necessary funds, (ii) UA's

appropriation reduces during the applicable fiscal year, or (iii) funding becomes otherwise legally unavailable, the Arizona Board of Regents may reduce the scope of this Agreement if appropriate or cancel the Agreement without further duty or obligation. The Arizona Board of Regents shall notify TEP as soon as reasonably possible after it is aware of any of the funding changes described in this Section 10.18.

10.19 Arbitration. The Parties agree to arbitrate disputes filed in Arizona Superior Court that are subject to mandatory arbitration pursuant to ARS § 12-133.

10.20 Entire Agreement. This Agreement is the final integration of the agreement between the Parties with respect to the matters covered by it and supersedes any prior understanding or agreements, oral or written, with respect thereto.

[Signature page follows]



The Parties are signing this Agreement on the date stated in the preamble.

TUCSON ELECTRIC POWER COMPANY

ARIZONA BOARD OF REGENTS ON BEHALF OF THE  
UNIVERSITY OF ARIZONA

By: Dallas J. Dukes

By: \_\_\_\_\_

Name: Dallas J Dukes

Name: \_\_\_\_\_

Title: VP Energy Programs & Pricing

Title: \_\_\_\_\_

[Signature page to Special Contract]



The Parties are signing this Agreement on the date stated in the preamble.

TUCSON ELECTRIC POWER COMPANY

ARIZONA BOARD OF REGENTS ON BEHALF OF THE  
UNIVERSITY OF ARIZONA

By: \_\_\_\_\_

By: Lisa N. Rulney

Name: \_\_\_\_\_

Name: Lisa N. Rulney

Title: \_\_\_\_\_

Title: Senior VP for Business Affairs & CFO

[Signature page to Special Contract]

**ANNEX 1  
DEFINITIONS**

"ACC" means the Arizona Corporation Commission, as set forth in the Recitals to this Agreement.

[REDACTED]

"Agreement" has the meaning set forth in the preamble to this Agreement, and includes all annexes and exhibits.

[REDACTED]

"ARS" means Arizona Revised Statutes, as set forth in Section 10.13.

"Authorized Representatives" has the meaning set forth in Section 10.1.

"Billing Representatives" has the meaning set forth in Section 3.4.5.

[REDACTED]

"Commercially Reasonable Efforts" has the meaning set forth in Section 1.3.

[REDACTED]

[REDACTED]

"Confidential Information" has the meaning set forth in Section 10.2(a).

[REDACTED]

"Dispute" has the meaning set forth in Section 7.1.

"Dispute Notice" has the meaning set forth in Section 7.1.1.

"Dispute Response" has the meaning set forth in Section 7.1.1.

"Due Date" has the meaning set forth in Section 3.4.2.

"Execution Date" has the meaning set forth in the preamble to this Agreement.

"Effective Date" has the meaning set forth in Section 1.1.

[REDACTED]

"Good Utility Practice" has the meaning set forth in Section 2.4.1.

"kV" has the meaning set forth in the Recitals to this Agreement.

"Monthly Invoice" has the meaning set forth in Section 3.4.1.

"MW" has the meaning set forth in the Recitals to this Agreement.

"MWh" has the meaning set forth in Section 2.2.2.

"Party" has the meaning set forth in the preamble to this Agreement.

"Parties" has the meaning set forth in the preamble to this Agreement.

"Payment Dispute" has the meaning set forth in Section 3.4.3.

"Payment Dispute Notice" has the meaning set forth in Section 3.4.3.

[REDACTED]

[REDACTED]

"REC" has the meaning set forth in Section 2.3.1.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Renewable Energy Credit" has the meaning set forth in Section 2.3.1.

[REDACTED]

"Renewable Energy Term" has the meaning set forth in Section 1.2.

[REDACTED]

[REDACTED]

[REDACTED]

"Scope 2 Commitment" has the meaning set forth in the Recitals to this Agreement.

"Scope 2 Emissions" has the meaning set forth in the Recitals to this Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

"Solar Project" has the meaning set forth in the Recitals to this Agreement.

[REDACTED]

[REDACTED]

"Solar Project In-Service Date" has the meaning set forth in the Recitals to this Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

"Tariff" has the meaning set forth in Section 3.1.1.

"TEP" has the meaning set forth in the preamble to this Agreement.

"TEP Rules and Regulations" has the meaning set forth in the Recitals to this Agreement.

"Term" has the meaning set forth in Section 1.2.

[REDACTED]

"UA" has the meaning set forth in the preamble to this Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

"UA Green Energy Charge" has the meaning set forth in Section 3.2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"UA-TEP Renewable Energy Project" has the meaning set forth in the Recitals to this Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Wind Project" has the meaning set forth in the Recitals to this Agreement.

[REDACTED]

[REDACTED]

"Wind Project In-Service Date" has the meaning set forth in the Recitals to this Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

**EXHIBIT A**

[REDACTED]

[REDACTED]

**EXHIBIT B**

[REDACTED]

[REDACTED]



Table 2

**Table 2**

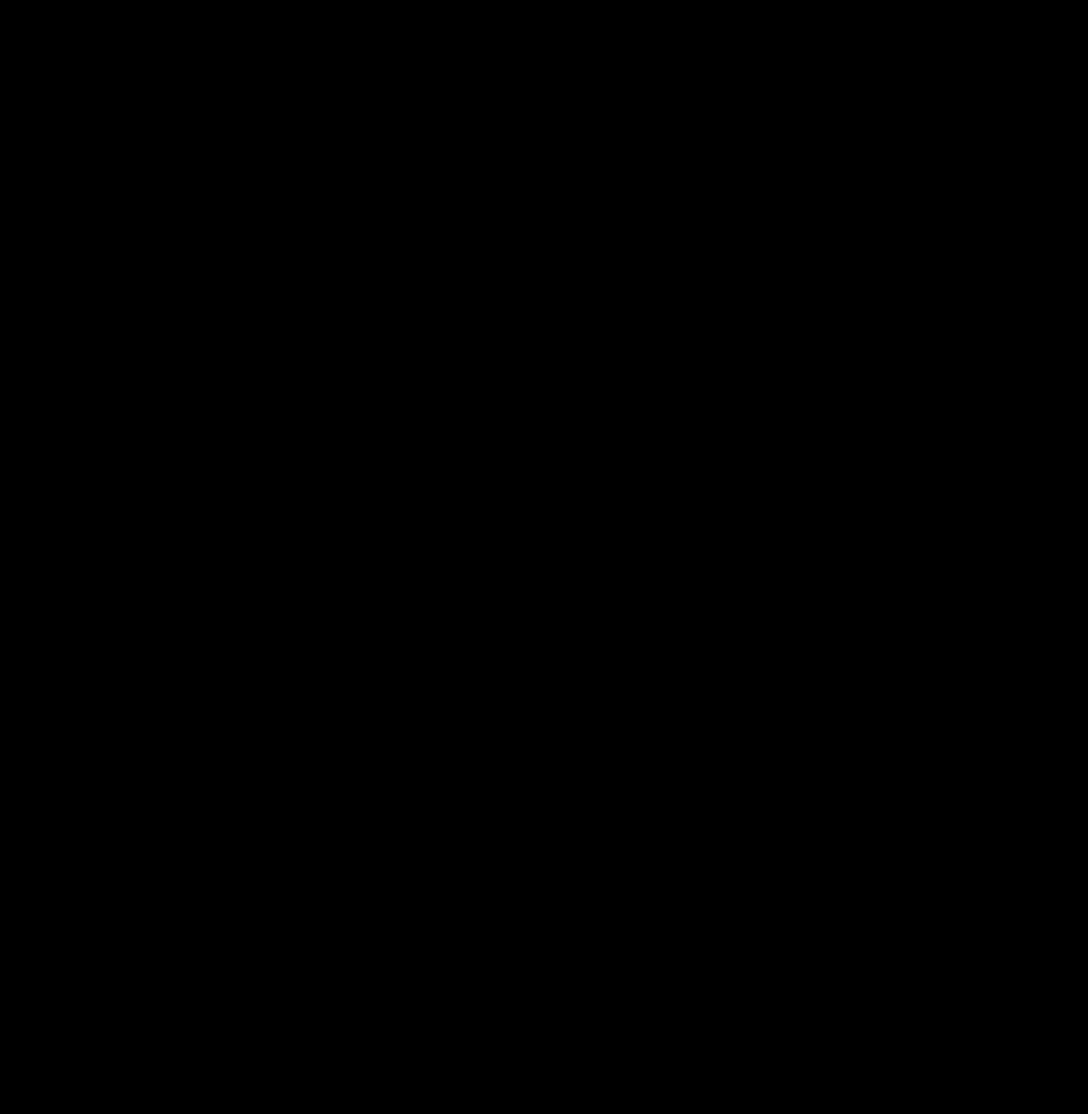


Table 3 - [REDACTED]

[REDACTED]
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[REDACTED]
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Table 4 -

[REDACTED]

[REDACTED]

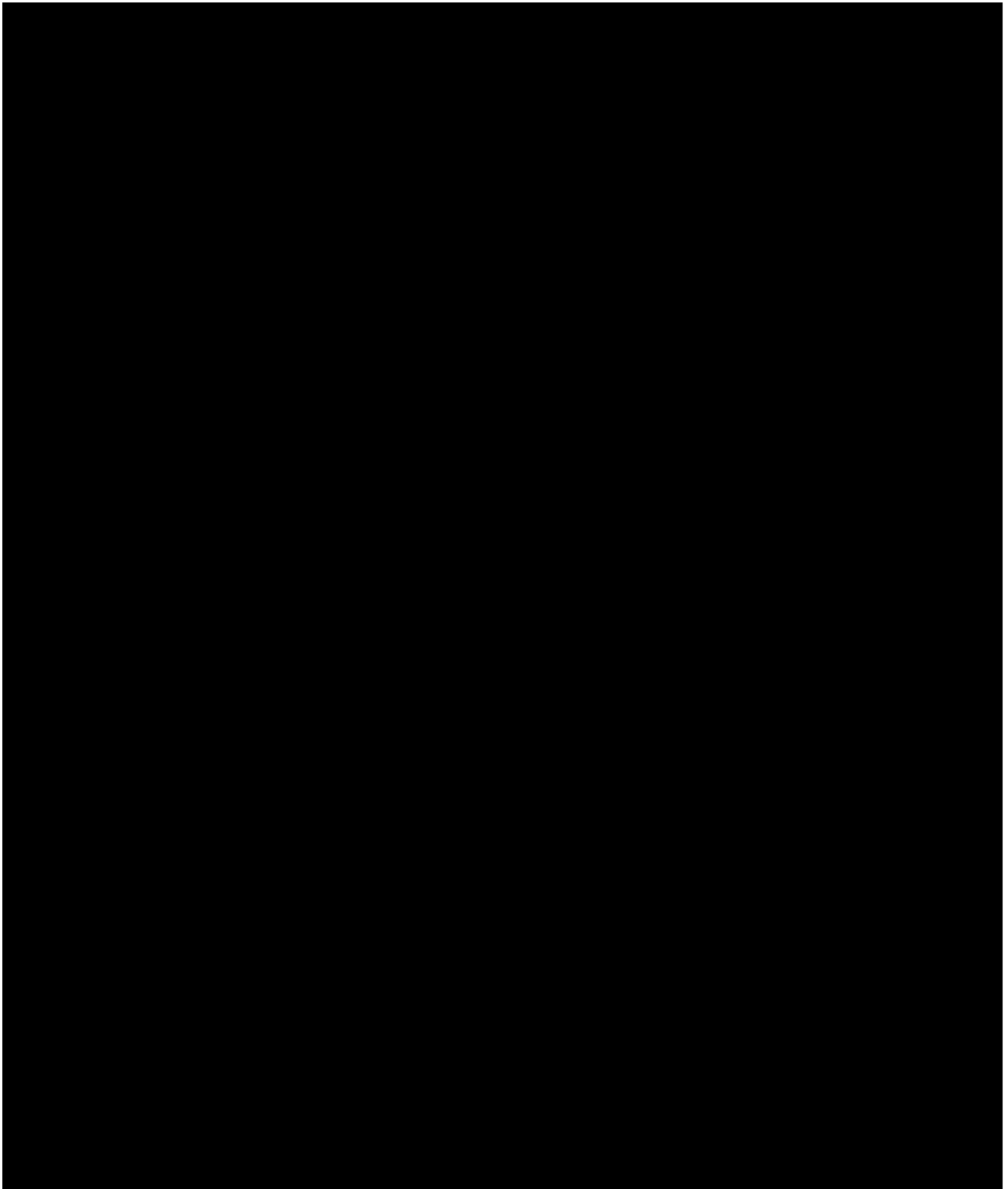




Table 7

1. *Journal of the American Medical Association*, 1997; 277: 1039-1043.

